HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.6942 OF 2000

–

Between:

C.Balaji Naidu
.....Petitioner

AND

A.P. Transco,
represented by its Director,
Vidyut Soudha,
Hyderabad & another.
.....Respondents

:: O R D E R ::

Counsel for the petitioner : Sri K. Chaitanya

Counsel for the respondents : Sri Samineni Kisore

24th January, 2007

In this petition, the petitioner has prayed for quashing communication dated 23-6-1999, by which Superintending Engineer, Operation Circle, Anantapur (respondent No.2) rejected his candidature for appointment on the post of L.D.C./Typist in accordance with the policy

contained in B.P.Ms.No.36, dated 18-5-1997.

It is borne out from the record that the petitioner was engaged by a contractor of the erstwhile Andhra Pradesh State Electricity Board (for short, 'the Board') as Shift Operator. He along with two others filed Writ Petition No.28232 of 1997 for issue of a mandamus to the respondents to consider his case for regularisation of service. The same was disposed of by the learned Single Judge on 20-10-1997 by directing the respondents to consider the case of the petitioners in accordance with the policy contained in B.P.Ms.No.36, dated 18-5-1997. In compliance of the Court's order, respondent No.2 interviewed the petitioner, but rejected his candidature on the ground that he was under-aged at the time of initial engagement.

I have heard learned counsel for the parties and perused the record.

Paragraphs 4 and 5 of B.P.Ms.No.36, dated 18-5-1997, which have bearing on the decision of the writ petition, read as under:

> "4. The A.P.S.E.Board accordingly issue the following orders in supercession of the orders issued in the reference 2nd & 3rd cited.
>
> i)Ex-Casual Labour:- The Ex-Casual Labour who were already interviewed but failed in the test and given second chance and also obtained interim orders from the High Court for consideration are only eligible for selection for appointment against 50% of the existing vacancies in accordance with the guidelines contained in Memo.No.DP/DM-I/A3/1133/25-1, dated 22-9-1985 read with Memo No.DP/DM-I/G2/2549/93, dt.14-9-1993.
>
> ii) Village Electricity Workers:- In terms of the agreement dated 5-3-1995, the cases of Village Electricity Workers shall be considered for selection and appointment against 50% of the existing

vacancies subject to the condition that they are not eligible to derive any benefit for their earlier service and on selection they will be appointed as fresh candidates in A.P.S.E.Board.

iii) Contract Labour:- The contract labour other than those engaged in 33 abolished categories in Generating sections shall be considered for selection and appointment against vacancies.

5. The guidelines for selection of the candidates from the above categories shall be as follows:

a) Age: Age shall be reckoned as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of age.

b) Educational Qualifications:- Educational qualifications shall be as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of educational qualifications or other relevant technical qualifications, which are prescribed in the service regulations for such appointment.

c) Seniority:- The seniority shall be reckoned based on the total period of service rendered by the respective candidates in the unit as per muster rolls/wage registers or as per the records maintained under the Contract Labour (Regulation and Abolition) Act, 1970.

d) Rule of Reservation:- The rules of reservation as per roster in terms of Reg. 22 of A.P.S.E.B. Service Regulation Part-II shall be strictly followed.

e) Selection Committee:-

i) Director (Personnel);

ii) Concerned Chief Engineer from Generating Station/Zone;

iii) Deputy Secretary (Personnel);

iv) Director (Industrial Relations) – Member Convenor."

A reading of paragraph 5(a) of the policy framed by the Board shows that a person could be considered eligible from the point of view of age only if he was within age limit at the time of the first engagement. The second part of this paragraph contains a bar on the relaxation of age.

Therefore, there is no escape from the conclusion that paragraph 5(a) is mandatory in character and a person who does not satisfy the age criteria is not eligible to be appointed against the 50% vacancies.

The petitioner has not controverted the fact that at the time of initial engagement by the contractor, he was less than 18 years, which was the prescribed minimum age for recruitment in the service of the Board. Therefore, the rejection of his candidature by respondent No.2 cannot be termed as arbitrary or illegal and there is no warrant for issue of a mandamus to the respondents to appoint him in the services of the Board on regular basis.

For the reasons stated above, the writ petition is dismissed.

Before parting with the case, I deem it proper to mention that the petitioner has not challenged the vires of paragraph 5(a) of B.P.Ms.No.36, dated 18-5-1997 and, therefore, I have not adverted to the constitutionality or vires of the policy framed by the Board.

G.S.SINGHVI, C.J.

24th January, 2007.

ARS